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Conflict of Interest Cases

Governing texts: Statutes [For Copies + analysis see Pres. Memo. of 9 FEB 1962 Re CONSULTANTS. (There are 2 files on this last subject - 1962) 1205]
Agency Regulation
Cong. Declaration of Policy
CEKKER Bill, passed by HR 1961.

The Statutes require that a crime have been committed.

Three situations develop (usually with TSS and OSI people):

1. Agency employee resigns and goes to work for Agency contractor; precautions can be taken to insulate his influence. on new contracts, etc.
2. Agency employee resigns, goes to work for the Contractor but is also retained by the Agency as a consultant (with knowledge of all persons concerned). As such, he may be very valuable to TSS. The effect of this arrangement is that he is receiving double compensation, at least for part of his time. This may be quite proper, if known to all persons concerned.

The matter becomes more complicated when a Company charges the above-described man's time to the project for the Agency (almost always cost-plus-fixed-fee contracts) and also charges to it part of the overtime burden of the company--in which burden the consultant's salary is also included.

3. The Agency employee owns part of the contracting company--e.g., the [redacted] case. Here objective, dispassionate decision in the matter of contract making may be more or less impossible.

Often, these cases are passed to OGC for opinion. The soft spot there is that OGC sometimes feels that it cannot or should not dig for the underlying facts, but should accept the account of facts submitted by TSS or OSI. Phrases such as "on the basis of the facts stated" occur in OGC opinions. Yet in some cases the TSS Management do not themselves know all the facts.

1205

For a very good introduction to the subject of conflict of interest, I recommend the introductory chapters of "Conflict of Interest & Federal Service", a book prepared by the New York City Bar Association in 1960 in support of the Celler Bill. OGC has a copy.

ADS